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IN THE

Supreme Court of the United States

OCTOBER TERM, 1962

IN THE MATTER OF THE ESTATE OF
ANGEL N. YIATCHOS, Deceased.

GUST YIATCHOS, *Petitioner*,

vs.

PEARLE W. YIATCHOS, Individually and as
Executrix of the Last Will and Testament of
ANGEL N. YIATCHOS, Deceased, and
CONSUL GENERAL OF GREECE, *Respondents*.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WASHINGTON

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IN THE SUPREME COURT
OF THE UNITED STATES

OCTOBER TERM, 1962

IN THE MATTER OF THE ESTATE OF
ANGEL N. YIATCHOS, Deceased.

GUST YIATCHOS, *Petitioner*,

VS.

PEARLE W. YIATCHOS, Individually and as Executrix of the Last Will and Testament of ANGEL N. YIATCHOS, Deceased, and CONSUL GENERAL OF GREECE, *Respondents*.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WASHINGTON

Petitioner Gust Yiatchos prays that a Writ of Certiorari issue to review the judgment of the Supreme Court of the State of Washington in the above-entitled case.

OPINIONS BELOW

The opinion of the Supreme Court of the State of Washington is set forth in Appendix A hereto at page 9. It is reported at 373 P. 2d 125.

The memorandum opinion of the trial court is not contained in any published reports. It is set forth in Appendix B hereto at page 13.

JURISDICTION

The judgment of the Supreme Court of the State of Washington was entered on June 28, 1962 (R. 31). A timely petition for rehearing filed by petitioner was denied by that court on September 19, 1962 (R. 36). The jurisdiction of this Court is invoked under 28 U.S.C. § 1257 (3).

QUESTION PRESENTED

Is the beneficial ownership of United States savings bonds purchased by a husband with community property, upon the death of the named owner, governed by United States Treasury Regulations or by state community property law?

CONSTITUTIONAL PROVISIONS, STATUTES AND REGULATIONS INVOLVED

This case involves Article 1, § 8, Clause 2 of the United States Constitution which provides:

> "The congress shall have the power. . . .
>
> "To borrow money on the credit of the United States;".

Also involved is the Supremacy Clause, Article 6, Clause 2 of the Constitution which provides:

> "This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the Judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding."

Also involved is the statute authorizing the Secretary of the Treasury to issue United States savings

bonds and to prescribe the terms and conditions therefor. The statute, 31 U.S.C. § 757c (a), and the pertinent Treasury Regulations, 31 C.F.R. § 315.0, *et seq.*, are set forth in Appendix D and Appendix E respectively.

STATEMENT OF THE CASE

This case was heard in the trial court upon stipulated facts and was presented on appeal to the Supreme Court of the State of Washington upon an Agreed Statement of Facts (R. 2). There are no disputed questions of fact.

The deceased, Angel N. Yiatchos, during his marriage to Pearle W. Yiatchos, purchased the United States savings bonds here involved, with community property. On each bond Angel N. Yiatchos was registered as owner, and petitioner, Gust Yiatchos, was registered as P.O.D. (payable on death) beneficiary. Angel N. Yiatchos died and this action to determine the ownership of the bonds was brought in the course of the probate of his will.

The decedent's will devised all cash and bonds to his brother (petitioner herein), four sisters and one nephew.

Petitioner, as plaintiff, claimed ownership of the bonds as the registered P.O.D. beneficiary. Respondent, Pearle W. Yiatchos, named as defendant individually as deceased's widow and as executrix of his will, prayed for a one-half interest in the bonds as her community share, and asked that the remaining one-half interest be distributed to the devisees named in decedent's will. The respondent, Consul General of Greece, as attorney in fact for several devisees under decedent's will, intervened, praying that one-half the bonds

be distributed to the widow, and the remaining one-half be distributed to the devisees under the will.

The facts being stipulated, the case was heard in the trial court solely on arguments on the legal questions raised. Giving full recognition to the Treasury Regulations, which were stipulated into evidence (R. 14), would result in the award of the bonds in their entirety to petitioner, the named beneficiary. If such result were held to constitute a constructive fraud upon the wife, a constructive trust might arguably be imposed upon one-half the bonds to preserve to her, her community one-half interest in the bonds, with the remaining one-half interest going to the designated beneficiary. (There has been no contention that there was actual fraud.) If the designation of a beneficiary were held to be totally void, the widow would own one-half the bonds as her interest in community property, and the remaining one-half interest in the bonds would be distributed to the devisees under the will.

The trial court adopted the last of these three theories holding in its memorandum opinion that:

> "The bonds are community property in their entirety. The brother, who is named as beneficiary on the bonds, has no right to the bonds or to the proceeds thereof by reason of his having been named as beneficiary on the bonds" (R. 22).

The court ordered a one-half interest in the bonds distributed to the surviving spouse and the remaining one-half interest to the devisees under the will (R. 24).

Petitioner appealed to the Supreme Court of the State of Washington contending that under the Treasury Regulations and under applicable Washington State statute (Chapter 14, Section 2 of Laws of 1943,

R.C.W. 11.04.240) he, as the named beneficiary, was the sole and absolute owner of the bonds. Petitioner further contended that in the event this might be regarded as a constructive fraud on the surviving wife, a constructive trust could be imposed in her favor upon a one-half interest in the bonds, but that in such event, the remaining one-half interest in the bonds should be awarded to him as the designated beneficiary.

After the case had been submitted to the State Supreme Court on briefs and oral argument but before its decision was announced, the Supreme Court of the United States on May 21, 1962, announced its decision in *Free v. Bland*, ... US ....., 8 L ed 2d 180, 82 S Ct ..... The Supreme Court of the State of Washington affirmed the judgment of the trial court holding that the husband's purchase with community funds of bonds payable on death to his brother, was in fraud of the respondent wife, and therefore void *ab initio*. The Court stated that *Free vs. Bland*, did not conflict (R. 33). Petitioners' petition for rehearing was denied September 19, 1962 (R. 36).

The federal question which petitioner asks this court to review was essential to a decision in this case at each level of its proceeding. It was presented to the trial court in the stipulated facts, particularly Paragraph IV thereof, and Exhibit 2 (R. 9, 14), and in oral argument. Its consideration by the trial court is apparent from its memorandum opinion (R. 15), particularly its reliance upon *In re Allen's Estate*, 54 Wn. 2d 616, 343 P 2d 867, from which it quoted as follows:

> "We therefore hold that, irrespective of the treasury regulations, a member of the community cannot be deprived of community funds by the purchase of government bonds." (R. 20).

It was raised on appeal in Point No. 1 of Concise Statement of Points Relied Upon by Appellant in the Agreed Statement of Facts (R. 29), and in the Brief of Appellant. Its consideration by the Supreme Court of the State of Washington is demonstrated in its opinion, particularly its discussion of *Free v. Bland* ..... US ....., 8 L ed 2d 180, 82 S Ct ....., (R. 31) which it purported to distinguish.

REASONS FOR GRANTING THE WRIT

Petitioner believes that the state court has decided a federal question of substance not in accord with the applicable decisions of the United States Supreme Court, particularly *Free v. Bland*, ... US ....., 8 L ed 2d 180, 82 S Ct .....

For many years the question whether the beneficial ownership of United States savings bonds was governed by Treasury Regulations or state property law was unresolved by this court. State courts decided various questions in various ways and on a variety of grounds. An increasing majority of courts over the years regarded the Treasury Regulations as controlling the beneficial ownership; if fraud, actual or constructive, was present, the defrauded party was protected by the imposition of a constructive trust to restore to him that which he would otherwise lose. A typical case is *Ibey v. Ibey*, 43 A 2d 157 (N.H. 1945). Others are collected in the annotation in 37 ALR 2d 1221 "Rights Upon Death of Co-owners of United States Savings Bonds."

A minority of courts adhered to the position that the Treasury Regulations were solely for the convenience of the Federal government and did not affect beneficial ownership which was governed by state property law. *Decker v. Fowler*, 199 Wash 549, 92 P 2d 254, 131 ALR

961 (1939); *Hilley v. Hilley*, 342 S W 2d 565 (Tex. 1961).

These conflicting theories were brought together for resolution in *Free v. Bland*, ... US ....., 8 L ed 2d 180, 82 S Ct ....., in which the Supreme Court of the United States granted certiorari to the Supreme Court of Texas. It was there decided that the Treasury Regulations do determine beneficial ownership and that under the Supremacy Clause of the Constitution, state law must bow to the Federal Regulations.

The decision of the Supreme Court of the State of Washington in the instant case is to the effect that the beneficiary designation on the bonds is void and that beneficial ownership is governed by state property law. This decision must be regarded either as directly contrary to *Free v. Bland, supra*, or as involving a factual situation which technically differs from that case, but which is, at best, inconsistent with the rule of law announced therein. This state decision creates an inconsistency which should be resolved by this court in order that the effect of the designation of beneficiaries upon United States savings bonds will be the same throughout all the United States.

Further, the effect of the findings of constructive fraud as a matter of law by the state court, which question was expressly reserved in *Free v. Bland*, should now be resolved. The decision of the state court that such fraud vitiates entirely the beneficiary designation, thus benefitting strangers not defrauded at the expense of the designated beneficiary, is contrary to the Supremacy Clause.

CONCLUSION

For the foregoing reasons the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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November 1962

Appendix A

OPINION OF THE SUPREME COURT
OF THE STATE OF WASHINGTON

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

IN THE MATTER OF THE ESTATE OF ANGEL N. YIATCHOS, Deceased.

GUST YIATCHOS,
Appellant,

vs.

PEARLE W. YIATCHOS, *Individually and as Executrix of the Last Will and Testament of* ANGEL N. YIATCHOS, Deceased,
Respondent.

CONSUL GENERAL OF GREECE,
Intervenor.

No. 36037
DEPARTMENT ONE

Filed June 28, 1962

Gust Yiatchos appeals from a final judgment in his action to determine the ownership of specified United States Government Savings Bonds, Series E, purchased by his deceased brother, Angel N. Yiatchos, with community funds of Angel N. Yiatchos and his respondent widow, Pearle W. Yiatchos.

Fortunately, the facts upon which the controversy was both tried and appealed are stipulated, so that only the question of ownership of the bonds' proceeds must be decided.

All purchases were with community funds. On all of the bonds, the appellant was designated as the beneficiary to whom they were payable upon the death of Angel N. Yiatchos, which occurred November 22, 1958.

By will, however, the deceased left all of the bonds to appellant, four sisters and a nephew. By the judgment, the court imposed a trust upon the bonds for the benefit of the surviving widow and his estate, and directed the appellant to endorse them, or, in the event he refused so to do, that a commission be appointed for that purpose.[1] We affirm.

RCW 11.04.230 and RCW 11.04.240[2] do not confer upon one spouse the power to convert community property into separate property. *In re Allen's Estate*, 54 Wn. (2d) 616, 343 P. (2d) 867, decided that a husband could not convert community funds into separate property by the purchase of series E bonds. We there said:

> "It is undisputed that the series E bonds were purchased with community funds. The bonds so purchased, therefore, were community property. If this were not so, a designing spouse could at once transform community property into separate property by the purchase of United States bonds."

---

[1] "If real or personal property is within the county, the court, in lieu of directing a conveyance thereof by a party or by a commissioner, may enter a judgment divesting the title of any party and vesting it in others, and such judgment has the effect of a conveyance executed in due form of law. When any order or judgment is for the delivery of possession, the party in whose favor it is entered is entitled to a writ of execution or assistance upon application to the clerk." Rule of Pleading, Practice and Procedure 70, RCW Vol. 0.

[2] "If either co-owner of United States savings bonds registered in two names as co-owners (in the alternative) dies without having presented and surrendered the bond for payment to a federal reserve bank or the treasury department, the surviving co-owner will be the sole and absolute owner of the bond." RCW 11.04.230.

"If the registered owner of United States savings bonds registered in the name of one person payable on death to another dies without having presented and surrendered the bond for payment or authorized reissue to a federal reserve bank or the treasury department, and is survived by the beneficiary, the beneficiary will be the sole and absolute owner of the bond." RCW 11.04.240.

The husband's purchase with community funds of bonds payable to him alone or, after his death, payable exclusively to his brother was in fraud of the rights of the respondent wife, Pearle W. Yiatchos. This was a unilateral attempt to convert community property into separate property, and void *ab initio*. The trial court correctly concluded:

> "That the community cannot be deprived of community funds by the purchase of government bonds."

The decision of the United States Supreme Court in *Free v. Bland*, ...U.S....., ... S. Ct. ....., ... L. Ed. (2d) ....., slip opinion, May 21, 1962, does not conflict.

The circumstances in *Free v. Bland, supra*, differ from the facts presented by this record. The Free bonds were purchased with community funds and were issued to *Mr. or Mrs.* Free. Mrs. Free died, and the controversy was between the surviving husband and Mrs. Free's son by a prior marriage.

Chief Justice Warren expressly recognized the exception presented by this record. The opinion states:

> ". . . While affording purchasers of bonds the opportunity to choose a survivorship provision which must be recognized by the states, the regulations neither insulate the purchasers from all claims regarding ownership nor immunize the bonds from execution in satisfaction of a judgment. The Solicitor General, appearing as *amicus curiae*, acknowledges that there is an exception implicit in the savings bond regulations, including the survivorship provision, so that federal bonds will not be a 'sanctuary for a wrongdoer's gains.' With this, we agree. The regulations are not intended to be a shield for fraud, and relief would be available in a case where the circumstances manifest fraud or a breach of

> trust tantamount thereto on the part of a husband while acting in his capacity as manager of the general community property. . . ."

This case falls within that exception. The purchase by the husband of United States Government Savings Bonds with community funds is a void endeavor to divest the wife of any interest in her own property. While the husband is the manager of the community personal property, he is under a fiduciary duty to act for the benefit of the community. *Gannon v. Robinson*, 159 Wash. Dec. 919, 371 P. (2d) ..... (1962). A breach of this duty is a constructive fraud.

The status of community property can be changed only by the agreement of both spouses, RCW 26.16.120. All of the bonds in question, being purchased with community funds, remain community property. Respondent widow had a vested one-half interest in the bond proceeds. The descent of decedent's interest is controlled by RCW 11.04.050,[1] and, therefore, must be distributed according to the terms of the will.

The judgment is affirmed.

FOSTER, J.

We concur:

FINLEY, C. J.
WEAVER, J
HILL, J.
ROSELLINI, J.

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[1] "Upon the death of either husband or wife, one-half of the community property shall go to the survivor, subject to the community debts, and the other half shall be subject to the testamentary disposition of the deceased husband or wife, subject also to the community debts. In case no testamentary disposition shall have been made by the deceased husband or wife of his or her half of the community property, it shall descend equally to the legitimate issue of his, her or their bodies. If there be no issue of said deceased living or none of their representatives living, then the said community property shall all pass to the survivors, to the exclusion of collateral heirs, subject to the community debts, the family allowance and the charges and expenses of administration." RCW 11.04.050.

Appendix B

MEMORANDUM OPINION OF TRIAL COURT

IN THE SUPERIOR COURT
OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF DOUGLAS

IN THE MATTER OF THE ESTATE OF ANGEL N. YIATCHOS, Deceased

GUST YIATCHOS,
Plaintiff,

vs.

PEARLE W. YIATCHOS, Individually and as Executrix of the Last Will and Testament of ANGEL N. YIATCHOS, Deceased,
Defendant.

No. 2922
MEMORANDUM OPINION

This matter came on for hearing before this Court on the complaint of Gust Yiatchos, as plaintiff, against Pearle W. Yiatchos ,individually and as Executrix of the last will and testament of Angel N. Yiatchos, deceased, wherein the plaintiff, Gust Yiatchos, prays that it be determined by the court and that he be given judgment adjudicating that he is the sole and absolute owner of United States Series E Savings Bonds described in the complaint.

It appears from the file in this matter and from the facts as stipulated by the parties that Angel N. Yiatchos and Pearle W. Yiatchos were husband and wife at the time of his death and had been husband and wife from June 25th, 1943, the date of their marriage, until

the time of the death of Angel N. Yiatchos, November 22nd, 1958.

It also appears that during the years of 1950 and 1951, Angel Yiatchos, with community funds, purchased some 19 United States Series E Savings Bonds, and that the face value of these bonds is $15,075.00. It also appears from the exhibit attached to the Stipulation as to Facts, that the bonds were purchased in the name of Angel N. Yiatchos, P.O.D. (which probably mean payable on death) and then the name Mr. Gust N. Yiatchos or Constantinos Yiatchos. It has been stipulated that Gust Yiatchos and Constantinos Yiatchos are one and the same person.

On October 7, 1954, Angel N. Yiatchos made a last will and testament, and in the second paragraph of that will he gives, devises and bequeaths all cash and bonds that he may own at the time of his death to his brother Gust Yiatchos and four sisters, naming them, and one nephew, naming him. The four sisters named and the nephew being residents of Greece, Gust Yiatchos, the brother, being a resident of New York.

At the time of the hearing on this matter, it appeared that the three sisters and the nephew, who survived the deceased, had intervened in the action through the Counsel General of Greece in San Francisco, and they ask that the attempted transfer of property to Gust Yiatchos in the nature of these bonds be set aside because the same were community property and that one-half of the amount of the bonds go to the surviving widow and one-half be disbursed according to the last will and testament of Angel N. Yiatchos according to paragraph second of the will. The surviving spouse took the position that the bonds were community property

and should be part of the community estate of Angel N. Yiatchos and distributed according to his last will and testament.

The Court appreciates the work done by counsel in this matter and the briefs that have been furnished by them to aid in reaching a decision in this matter.

The argument of the counsel for Gust Yiatchos, the plaintiff, is to the effect that these bonds constitute a contract with the United States Government, and that the rights of the persons to an interest in the bonds should be determined according to that contract. It is also argued that, if Gust Yiatchos is not entitled to all of the bonds, that he is entitled at least to a one-half interest in the bonds, because the bonds being purchased with community property were owned one-half by the defendant, Angel N. Yiatchos and one-half by his surviving spouse.

It is also argued on behalf of Gust Yiatchos that the rights of the parties to the bonds are determined by Chapter 14 of the Session Laws of 1943 of the State of Washington, which has now become part of the Revised Code of Washington, being Sections 11.04.230 and 11.04.240 of that code. That law provides that the surviving co-owner of United States Savings Bonds will be the sole and absolute owner of the bonds, and that if the bonds were payable on death to another person that the surviving beneficiary will be the sole and absolute owner of the bonds. It is the argument of the attorneys for Gust Yiatchos that Chapter 14 of the Laws of 1943 was passed to avoid the holding in the case of *Decker vs. Fowler*, 199 Wash. 549 (1939). It appears to the Court that this 1943 act would probably be controlling under a set of facts such as we had in the Decker case, which

did not involve community property interests in any manner. But, the Court does not feel that this law would be controlling where, as in this case, the bonds were purchased with community funds.

Cases have been cited to the Court from other jurisdictions where courts have taken the stand that this was a contract with the Federal Government and therefore the person named as beneficiary or co-owner in the bonds who survived would be entitled to the bonds. One or two of those cases come from courts in states where they have the community property system and therefore do have to be given consideration in determining the question here before the Court.

It appears to the Court that the question of property rights in the State of Washington is one of the most important questions to be kept in mind in trying to determine the question here before the Court. The IXth amendment to the United States Constitution is as follows:

"*Reservation of rights of the people.* The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Amendment X of the United States Constitution is as follows:

"*Powers reserved to the states or people.* The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

The right of the States to determine their own property system was never delegated to the United States by the Constitution, therefore it was reserved to the States respectively, or to the people.

The right of the State of Washington to maintain its community property system, whereby the wife and husband both had a vested right in all community property acquired after marriage, has been upheld by the United States Supreme Court. A case on this point is the case of *Burns Poe, Director of Internal Revenue for the District of Washington, vs. H. G. Seaborn*, 75 L. Ed. 238, 282 U.S. 101 (1930). The purpose of that case was to determine whether husbands and wives living in the State of Washington had to show all their income as the husband's income, in one tax return, for a purpose of Federal Income Tax, or whether the husband and a wife could each make separate income tax return and claim a half interest for each in the income of the community. The United States Supreme Court there recognized that the law of the state was controlling as to the wife's ownership of or interest in community property, and it was also stated in the opinion in that case that it is clear that the wife has "in Washington a vested property right in the community property equal to that of her husband and in the income of the community property including salaries or wages of either husband or wife or both. A description of the community system of Washington and of the rights of the spouses and of the powers of the husband as manager, will be found in *Warburton vs. White*, 176 U.S. 484, 44 L. ed. 555, 20 S. Ct. 404." Therefore, according to the ruling of the United States Supreme Court, a wife in the State of Washington has a vested right in the community property that is acquired by a husband and wife.

It appears to this Court that neither the United States Congress nor the Washington State Legislature has any right to change the property system in the

State of Washington by acts providing for the issuance of United States Savings Bonds.

As was stated by Mr. Cone at the time of the argument on this question, it appears that the Supreme Court of the State of Washington has answered the question before us in the case of *In re Allen's Estate*, 54 Wash. (2d) 616, 343 Pac. (2d) 867. In that case bonds were purchased with community funds and placed in the name of the husband and wife. Both the husband and wife had been married before and the wife had a son by the prior marriage. The wife passed away and apparently left no will, the husband was appointed administrator and did not inventory the United States Savings Bonds as part of the estate, and at the time of the presentation of the final account and petition for distribution the son of the deceased objected on the ground that the bonds should have been inventoried as part of the community property of this estate. The lower court so held and the supreme court affirmed the lower court.

The following statement is from page 619 of the opinion in the Allen case:

> "All property acquired after marriage except by gift, devise or descent is community property. * * *."
>
> "It is undisputed that the series E bonds were purchased with community funds. The bonds so purchased, therefore, were community property. If this were not so, a designing spouse could at once transform community property into separate property by the purchase of United States bonds."

The following statement is from page 620 of the Allen opinion:

> "We therefore hold that, irrespective of the treasury regulations, a member of the community cannot be deprived of community funds by the purchase of government bonds."

The case of *Togliatti vs. Robertson*, 29 Wash. (2d) 844, 190 Pac. (2d) 575, deals with the question of United States savings bonds and community and separate property. The following quotation is from page 847 of the opinion in that case:

> "If these savings bonds were his separate property, he did not die seized of them. They passed to Katy Togliatti, the surviving co-owner, upon his death. On the other hand, if the bonds were purcased with community funds, he had no right to make a gift of them by naming Katy Togliatti co-owner, and the bonds would be inherited by his widow."

Another case in point is the case of *In re Towey's Estate*, 22 Wash. (2d) 212, 155 Pac. (2d) 273. That case concerned the proceeds of four life insurance policies on the life of the deceased husband, John Thomas Towey. The premiums on the life insurance policies had been paid with community funds. The supreme court there held that the proceeds of these four policies were community property. The following quotation is from the opinion in that case:

> "For the sake of clarity, we are repetitive. The subject matter (proceeds of four life insurance policies) of this controversy is community property, which, of course, was owned equally by John Thomas Towey and his wife (respondent), as all community property, both real and personal, is owned by both spouses equally. That is, respondent had a vested property right in all of the community property (proceeds of insurance policies and all other assets of the marital community) equal to that of her husband. When the husband died, the assets (insurance proceeds and all other community property) of the marital community should have been applied to payment of debts of the marital community. One half of the community property remaining after payment of debts of the commu-

nity should have been distributed to respondent widow. The other one half of the community property remaining after payment of debts of the community was subject to testamentary disposition of decedent Towey (Rem. Rev. Stat., §1342), and that one half should have been distributed pursuant to the terms of his last will and testament, executed January 17, 1943."

In *Marston vs. Rue*, 92 Wash. 129, 159 Pac. 111, it is pointed out very clearly that the husband cannot give away property of the community against the wife's consent, and at page 131 in that opinion there is this statement:

"No part of those savings can he make gifts of against her consent, *even to his own relatives.*"

It appears to the Court that it is clear that under the property system in the State of Washington, the bonds purchased by Angel N. Yiatchos, naming his brother, Gust Yiatchos or Constantinos Yiatchos, as beneficiary, were purchased with community funds and are therefore community property of Angel N. Yiatchos and his surviving wife. The surviving wife is entitled to one-half interest in these bonds. The other one-half interest is subject to the testamentary distribution made by the deceased in his last will and testament. Counsel for the plaintiff argue that even though the bonds are found to be community property, their client should be entitled to one-half interest in the bonds inasmuch as Angel N. Yiatchos owned one-half interest. This argument has some appeal and cannot be disregarded without attention. However, it appears to the Court that these bonds are community property and the interest of Angel N. Yiatchos in those bonds, as well as any other community property, can be disposed of only by last will and testament or by the laws of descent of the State of Washington, if he did not have a last will

and testament. The bonds are community property in their entirety. The brother, who is named as the beneficiary on the bonds, has no right to the bonds or to the proceeds thereof by reason of his having been named as beneficiary on the bonds. These bonds or the proceeds on the bonds are the community property of Angel N. Yiatchos and his surviving spouse, and are assets of his estate and should be probated as such, and the surviving wife should receive her one-half interest in the bonds and the other one-half should be distributed in accordance with his last will and testament. It being understood that the bonds, like all other community property, are subject to use for payment of community debts.

THEREFORE, IT IS THE OPINION OF THIS COURT that the complaint of Gust Yiatchos, plaintiff, should be dismissed, and the other parties are entitled to a judgment for costs against the plaintiff, and that the interveners be granted a judgment on their cross complaint and for their costs and disbursement in the action.

IT IS FURTHER ORDERED that a trust be imposed upon these bonds for the benefit of the estate of Angel N. Yiatchos, deceased, and Pearle W. Yiatchos, his wife, and that the plaintiff Gust Yiatchos, also known as Constantinos Yiatchos, be directed to endorse the bonds so that the same may be cashed or sold, so that the proceeds will be available as community property of Angel N. Yiatchos, deceased, and his surviving wife, and that should he fail or refuse to do so that a commissioner be appointed by this Court for purpose of endorsing said bonds.

DONE IN OPEN COURT this 30th day of January, 1961.

/s/ FELIX REA, *Judge*

Appendix C

JUDGMENT OF TRIAL COURT

IN THE SUPERIOR COURT
OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF DOUGLAS

IN THE MATTER OF THE ESTATE OF ANGEL N. YIATCHOS, Deceased.	
GUST YIATCHOS, *Plaintiff,*	
vs.	No. 2922
PEARLE W. YIATCHOS, individually and as Executrix of the Last Will and Testament of ANGEL N. YIATCHOS, Deceased, *Defendants.*	JUDGMENT

This cause having come on for trial on the 3rd day of November, 1960, before the above entitled court sitting without a jury, the plaintiff being represented by his attorneys, Whitmore & Whitmore, defendant appearing by her attorney, Charles Cone, and intervenors being represented by their attorney, Ned W. Kimball; and the Court having heard the testimony presented, having examined the evidence submitted and heard the argument of counsel, and heretofore entered its findings of fact and conclusions of law, now, therefore,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the plaintiff take nothing by his complaint and that defendant and intervenors have judgment against the plaintiff for their costs in this action.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that a trust be and hereby is imposed upon the following United States Savings Bonds:

FACE AMOUNT	NUMBER	PURCHASE DATE	P.O.D. BENEFICIARY
$ 50.00	L211140959E	February 1951	Gust Yiatchos
25.00	Q950942219E	February 1951	Gust Yiatchos
500.00	D22883110E	February 1951	Gust Yiatchos
1000.00	M23752285E	February 1951	Gust Yiatchos
1000.00	M23752287E	February 1951	Gust Yiatchos
1000.00	M23752281E	February 1951	Gust Yiatchos
1000.00	M23752280E	February 1951	Gust Yiatchos
1000.00	M23752279E	February 1951	Gust Yiatchos
1000.00	M23752278E	February 1951	Gust Yiatchos
1000.00	M23752777E	February 1951	Gust Yiatchos
1000.00	M23222621E	February 1951	Gust Yiatchos
1000.00	M23222620E	February 1951	Gust Yiatchos
1000.00	M23752282E	February 1951	Gust Yiatchos
1000.00	M23752284E	February 1951	Gust Yiatchos
1000.00	M23752283E	February 1951	Gust Yiatchos
1000.00	M23752286E	February 1951	Gust Yiatchos
500.00	D22512290E	June 1950	Constantinos Yiatchos
500.00	D22512289E	June 1950	Constantinos Yiatchos
500.00	D22512288E	June 1950	Constantinos Yiatchos

for the benefit of the estate of Angel N. Yiatchos, deceased, and Pearle W. Yiatchos, his wife, and that the plaintiff, Gust Yiatchos, also known as Constantinos Yiatchos, be and hereby is directed to endorse the bonds so that the same may be cashed or sold, so that the proceeds will be available as community property of Angel N. Yiatchos, deceased, and his surviving wife, and that should he fail or refuse to do so a commissioner shall be appointed by this Court for the purpose of endorsing said bonds.

Done in open court this 17th day of March, 1961.

FELIX REA, *Judge*

Presented by:

NED W. KIMBALL,

Attorney for Intervenors.

Appendix D

31 U.S.C. §757c (a)

"The Secretary of the Treasury, with the approval of the President, is authorized to issue from time to time, through the Postal Service or otherwise, United States savings bonds and the United States Treasury savings certificates, the proceeds of which shall be available to meet any public expenditures authorized by law, and to retire any outstanding obligations of the United States bearing interest or issued on a discount basis. The various issues and series of the savings bonds and the savings certificates shall be in such forms, shall be offered in such amounts, subject to the limitation imposed by Section 757b of this title, and shall be issued in such manner and subject to such terms and conditions consistent with subsections (b) - (d) of this section, and including any restrictions on their transfer, as the Secretary of the Treasury may from time to time prescribe."

Appendix E

31 C.F.R. 315.0, et seq. (315.5, 315.7, 315.20, 315.66)

"§ 315.0 *Applicability of regulations.* The regulations in this part apply generally to all United States Savings Bonds of all series of whatever designation, bearing any issue dates whatever, except as otherwise specifically provided herein."

"§ 315.5 *General.* United States Savings Bonds are issued only in registered form. The form of registration used must express the actual ownership of and interest in the bond and, except as otherwise specifically provided in Subpart E and § 315.48 of Subpart I of this part, will be considered as conclusive of such ownership and interest.***"

"§ 315.7 *Authorized forms of registration.* Subject to any limitations or restrictions contained in these regulations on the right of any person to be named as owner, coowner, or beneficiary, savings bonds may be registered in the following forms:

(a) *Natural persons. . . .*

(3) Beneficiary form—two persons (only).

Examples:

'John A. Jones payable on death to Mrs. Ella S. Jones.'

'John A. Jones P.O.D. Mrs. Ella S. Jones.'

'Payable on death' may be abbreviated to 'P.O.D.' as indicated in the last example. The first named person is hereinafter referred to as the owner and the second named person as the beneficiary."

"§ 315.20 *General.* (a) No judicial determination will be recognized which would give effect to an attempted voluntary transfer inter vivos of a bond or would defeat or impair the rights of survivorship conferred by these regulations upon a surviving coowner or beneficiary, and all other provisions of this subpart are subject to this restriction. Otherwise, a claim against an owner or coowner of a savings bond and conflicting claims as to ownership of, or interest in, such bond as between coowners or between the registered owner and beneficiary will be recognized, when established by valid judicial proceedings, upon presentation and surrender of the bond, but only as specifically provided in this subpart."

"§ 315.66. *After the death of the registered owner.* If the registered owner dies without the bond having been presented and surrendered for payment or authorized reissue and is survived by the beneficiary, upon proof of death of the owner the beneficiary will be recognized as the sole and absolute owner, and payment or reissue will be made as though the bond were registered in his name alone (see Subpart K)." (Subpart K immaterial.)